REPORT OF THE
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF HEALTH PROFESSIONS ON

The Feasibility of Licensing Marriage and Family Therapists in the Commonwealth of Virginia

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT NO. 32

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Department of Health Professions

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December 17, 1993

To: The Honorable Lawrence Douglas Wilder
Governor of the Commonwealth of Virginia

The Members of the General Assembly of Virginia

It is my privilege to present the report constituting the response of the Board of Health Professions to the request contained in Senate Bill No. 1036 of the 1993 Session of the General Assembly of Virginia.

The report provides the findings and recommendations of the Board regarding the feasibility of licensing marriage and family therapists in the Commonwealth.

Bernard L. Henderson, Jr.

BLHjr/rdm
Enclosure

THE FEASIBILITY OF LICENSING MARRIAGE AND FAMILY THERAPISTS IN THE COMMONWEALTH OF VIRGINIA

A Report to the Governor and the General Assembly

In Response to

Senate Bill 1036 (1993 Session)

Virginia Acts of Assembly - Chapter 795

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF HEALTH PROFESSIONS

Richmond

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TABLE OF CONTENTS

* *

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

Bernard L. Henderson, Jr., Director

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Department of Health Professions

1993 SESSION

VIRGINIA ACTS OF ASSEMBLY - CHAPTER 795

An Act to request the Board of Health Professions to study the feasibility of regulation and licensure of marriage and family therapists.

[S 1036]

Approved MAR 2 [illegible] 1993

Whereas, the National Institute of Mental Health (NIMH) recognizes five core mental health professions to compete equally for NIMH-funded traineeships, among which marriage and family therapy is one; and

Whereas, marriage and family therapy is listed by the Health Resources and Services Administration of the U.S. Department of Health and Human Services as an identifiable and distinct mental health profession; and

Whereas, while the Department of Health Professions licenses professional counselors and psychologists as well as others and there is overlap among the mental health professions, the profession of marriage and family therapy is a unique and delineated profession, requiring a master's degree in a mental health discipline and extensive clinical experience; and

Whereas, the practice of marriage and family therapy may be defined as the diagnosis and treatment of nervous and mental disorders within the context of marriage and family systems; and

Whereas, marriage and family therapists, as pioneers in highly structured treatment to address problems immediately and reach specific, attainable treatment goals, focus on changing behavior and communication through active intervention; and

Whereas, in treatment, marriage and family therapists may utilize other relevant resources such as teachers, social workers, and clergy, in order to facilitate effective use of mental health care resources; and

Whereas, the incidence of divorce continues to increase and the impact of divorce on adults and, particularly, on children continues to be significant; and

Whereas, the plight of children in dysfunctional families has become a concern of schools, social services agencies, and the health care system; and

Whereas, 29 other states have recognized the importance of marriage and family therapy as a profession by enacting licensure laws; and

Whereas, among the powers and duties of the Board of Health Professions, pursuant to § 54.1-2510, is the charge to "evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions of this title, to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed" and to "recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation"; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Board of Health Professions to study regulation of marriage and family therapy.—The Board of Health Professions is requested to study the feasibility of licensing marriage and family therapists. Pursuant to this study, the Board may recommend the structure for the licensure and regulation of marriage and family therapists and may develop proposed regulations governing the licensure of marriage and family therapists by December 1, 1993. The Board shall conclude its study and report to the Governor and the 1994 Session of the General Assembly in accordance with the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.*

EXECUTIVE SUMMARY

Background and Authority

Senate Bill 1036 was introduced in the 1993 Session of the Virginia General Assembly as a legislative proposal to **require** the licensure of marriage and family therapists (MFTs) in the Commonwealth and to establish a Board on Marriage and Family Therapy within the Department of Health Professions to administer and enforce the licensure program.

Subsequent amendments, enacted by the General Assembly, resulted instead in a request for the Board of Health Professions to **study** the issue of licensure:

> **The Board of Health Professions is requested to study the feasibility of licensing marriage and family therapists. Pursuant to this study, the Board may recommend the structure for the licensure and regulation of marriage and family therapists and may develop proposed regulations governing the licensure of marriage and family therapists by December 1, 1993. The Board shall conclude its study and report to the Governor and the 1994 Session of the General Assembly . . .**

The Bill, as enacted, defers to the statutory authority of the Board of Health Professions to "evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated . . . to consider whether each such professions should be regulated and the degree of regulation to be imposed" (Code of Virginia § 54.1-2510.2. This authority is advisory only; enactment of any provision to regulate any profession at any level is reserved to the General Assembly, which has articulated the policy of the Commonwealth with respect to occupational and professional regulation:

> **. . . the right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is found that such abridgment is necessary for the preservation of the health, safety and welfare of the Public.** (Code § 54.1-100)

Study Methods

The Board of Health Professions conducted the following research related to the feasibility of licensing marriage and family therapists:

1. Review of the history and system for the regulation of mental health and counseling professions in the Commonwealth.

2. Review of the experience of other states and jurisdictions in the regulation of these professions, including marriage and family therapists.

3. Conduct of an informational hearing and a widely-publicized invitation to comment on the issue of licensure of marriage and family therapists.

4. Application of seven criteria adopted by the Board to evaluate the need to regulate currently unregulated health professions and occupations (see page 24).

The review was conducted by the Board's Regulatory Research Committee. The findings and recommendations in this report were approved by majority vote of the full Board at its meeting on October 19, 1993.

Discussion

Two issues dominate discussion of the feasibility and merits of licensing marriage and family therapists in the Commonwealth: (1) whether marriage and family therapy constitutes a distinct profession with a unique scope of practice, and (2) the characteristics of occupational **licensure** and its implications for restricting the marketplace.

First, while it is clear that marriage and family therapy constitutes a distinct constellation of **services** for the most prevalent of all social institutions (conjugal pairs and families) and that these services are increasingly sought by consumers, paid for by third-party payers, and valued as legitimate among an array of mental health and counseling services, there is no consensus that marriage and family

therapy constitutes an identifiable **profession**, distinct from other regulated and unregulated mental health and counseling professions.

Second, although the term "licensure" is frequently and incorrectly used to denote any level of occupational regulation, licensure is but one of several levels of regulation which have very different implications for restriction of the marketplace. While these levels are not explicitly defined in Virginia statutes pertaining to the regulation of health occupations and professions, the Board of Health Professions has adopted the following working definitions to guide its evaluations of the need for regulation and the level of regulation to be imposed:

> **Licensure** is the most restrictive level of occupational regulation. Licensure generally involves the delineation in statute of a scope of practice which is reserved to a select group based upon their possession of unique, identifiable, minimal competencies for safe practice. In this sense State Licensure endows a particular occupation or profession with a monopoly in a specified scope of practice.
>
> The practice of medicine, nursing, dentistry, pharmacy, optometry, veterinary medicine, and a number of other health professions requires a license in order to provide services within a legally specified scope of practice.
>
> **Certification** is a less restrictive level of regulation, more commonly known as 'title protection.'
>
> In certification programs, no scope of practice is described in the law; anyone may provide services falling within the scope of practice of the certified occupation or profession, but only those who have met a minimal standard established by the State may use the protected title.
>
> Occupational therapy, respiratory therapy, and radiologic technology are examples of health professions which are certified in the Commonwealth. While others may provide occupational, respiratory, or radiologic health services, only certified personnel who have met standards established by the State may use statutorily-protected titles (e.g. "occupational therapist," "respiratory therapist," "certified radiological technology practitioner," or similar titles connoting certification by the State.

Registration is the least restrictive form of occupational regulation. It generally requires only that a practitioner register with the State; no standard is imposed upon those who desire to register to perform a service.

In reviewing the need for additional health professional regulation, the Board first assesses the risk for harm from unregulated practice, then evaluates the need for specialized skills and training, the level of autonomy of practitioners, the scope of the practice, the economic impact of regulation, and available alternatives to regulation of the occupation or profession that would provide protection to the public. Only when these assessments are completed does it determine the level of regulation to be recommended. That determination rests on the principle that the least restrictive level of regulation consistent with public protection will be recommended.

The Virginia Association of Marriage and Family Therapists (VAMFT) is the principal professional organization seeking licensure of MFTs in the Commonwealth. During the course of the review, VAMFT identified a number of other options that would also be acceptable. These included (in the order of the association's preference):

(1) establishment of an "umbrella board" for the licensure of marriage and family therapists, professional counselors, psychologists, and social workers;

(2) incorporation of the licensure of MFTs into an existing, but retitled board (e.g., Board of Professional Counselors and Marriage and Family Therapists);

(3) establishment of a separate board for the licensure of MFTs, and;

(4) establishment of a certification program for MFTs to be available to licensees of existing boards (physicians, nurses, professional counselors, psychologists, social workers) and to MFTs who do not meet licensure requirements for these professions.

A staff report to the Board endorsed the last alternative, a certification program that would be voluntary for already licensed mental health and counseling professionals and mandatory for those who do not meet existing licensure requirements.

Because the General Assembly specified that the Board should study the feasibility of licensing marriage and family therapy, however, the Board's findings and recommendations are confined to licensure. Licensure is an appropriate form of regulation only when it is the least restrictive method available to protect the public, and when a profession or occupation has a unique scope of practice which may be defined in enforceable terms in law and reserved to a single occupation or profession.

> **Based on its research and through application of its formal evaluation criteria, the Board of Health Professions finds that marriage and family therapy does not constitute a distinct profession, separate from the provision of other mental health and counseling services, and that, as a consequence, licensure of marriage and family therapists is an overly restrictive means for providing public protection.**

In making this determination, the Board emphasizes its belief that individuals trained and competent in the provision of marriage and family therapy services should be empowered to practice in the Commonwealth. This authorization to earn a livelihood may be achieved by (a) becoming licensed within one of the currently licensed professions (medicine/psychiatry, psychology, professional counseling, social work, or as a psychiatric mental health nurse clinician) by meeting existing standards for such licensure, or (b) revision of these standards to accommodate those who are clearly competent to provide marriage and family therapy services, but who fail to meet particularistic requirements for licensure within an existing profession.

Findings and Recommendation

As a result of its assessment, the Board of Health Professions respectfully submits the following findings and recommendation for the consideration of the Governor and the General Assembly. The findings relate specifically to the seven criteria the Board uses to determine whether regulation is in the public interest, and to recommend the least restrictive regulatory provisions consistent with the protection of the public health, safety and welfare.

Findings

1. There is a risk for harm from the unregulated practice of marriage and family therapy. Those who provide marriage and family therapy services should be licensed as mental health or counseling professionals, except when exempted from these requirements by Virginia statute.

2. The practice of marriage and family therapy requires specialized skills and training. These skills and this training may be acquired in programs preparing individuals for licensure as regulated mental health and counseling service providers, or in special programs for the preparation of marriage and family therapists.

3. The functions and responsibilities of marriage and family therapists require independent judgment and providers of these services practice autonomously;

4. While distinguishable from other regulated and unregulated mental health and counseling services, the practice of marriage and family therapy should not be confined to those trained in special programs for the preparation of marriage and family therapists.

   A number of mental health and counseling professions are currently licensed: psychiatry (as a branch of medicine), clinical and other psychology, professional counselors, clinical and other social workers, and psychiatric mental health nurse clinicians. The scope of practice of each of these professions is broad and "generic," and arguably includes the provision of marriage and family therapy services.

5. The economic impact of **licensing** marriage and family therapists is not justified. Licensure implies one of two conditions that would create unnecessary costs or unduly restrict the supply of practitioners:

   a. other licensed professionals (e.g. psychiatrists, clinical and other psychologists, clinical social workers, professional counselors, psychiatric mental health nurse clinicians) would need to be

additionally licensed to offer marriage and family therapy services within their practice, or

b. the practice would be confined to individuals prepared in educational and experiential programs designed exclusively for the preparation of marriage and family therapists.

6. There are less restrictive and less costly alternatives to the separate licensure of marriage and family therapists that could protect the public. Among these alternatives is the requirement that individuals specially prepared in marriage and family therapy educational programs qualify for licensure within an existing program for the licensure of mental health and counseling professionals.

7. The least restrictive mechanism for qualifying graduates of accredited marriage and family therapy programs is to revise licensure requirements now in effect to permit competent MFTs to become licensed as professional counselors with a scope of practice limited to marriage and family therapy services.

In reaching these findings, the Board is acutely aware of the lack of consensus among organized professions regarding the need for a legally defined and separate identity for providers of marriage and family therapy services. Despite continuing interprofessional conflict, a majority of states, the federal government, private third-party payers, and other agencies and organizations recognize this distinct identity. There is a need to monitor developments related to marriage and family therapy on a continuing basis.

In the Commonwealth, although marriage and family therapy services are provided by a number of licensed professions, widespread exemptions in some existing licensure requirements -- social work, counseling, and to a lesser degree, psychology -- make it possible for unlicensed persons to provide these services as employees of public agencies and private non-profit organizations. No specific regulatory program has been developed to ensure the competency of those who provide marriage and family therapy services either among currently licensed providers or providers in "exempt" settings. Such assurance is available only to the extent that practitioners are licensed to engage in private, proprietary practices and refrain from providing services beyond those for which they have been prepared.

Ironically, State-funded programs for the graduate education of marriage and family therapists are in operation in the Commonwealth even though graduates of these programs cannot practice without further preparation for licensure in an existing mental health or counseling profession, or unless they are employees of public or private, nonprofit organizations. As a consequence of these concerns, the Board submits the following additional finding:

7. Virginia should continue to monitor developments related to marriage and family therapy, and the Commonwealth should not construe its current licensure programs for mental health and counseling professions to exclude persons prepared as marriage and family therapists from practicing in the Commonwealth. Every effort should be made to accommodate and facilitate the licensure of persons prepared as marriage and family therapists as legitimate providers of mental health and counseling services in the Commonwealth.

The following recommendation is provided for the guidance of the General Assembly in response to Senate Bill 1039 (1993 Session).

Recommendation

The Board of Health Professions recommends that the General Assembly decline to enact legislation at this time to require (1) the licensure of marriage and family therapists as a separate profession, or (2) the creation of a separate licensure board for marriage and family therapists.

To ensure that the Commonwealth properly monitors developments related to marriage and family therapy, the Board of Health Professions will continue its ongoing review of issues affecting the regulation of mental health and counseling professions and exercise its authority to advise the Governor, the General Assembly, and the Director of the Department of Health Professions in matters related to the regulation or deregulation of these professions. In conducting this review, the Board will also assess the responsiveness of boards within the Department in facilitating and accommodating the safe, cost-effective and equitable provision of marriage and family therapy services in the Commonwealth.

FEASIBILITY OF LICENSING MARRIAGE AND FAMILY THERAPISTS IN THE COMMONWEALTH

Introduction, Background, and Authority

Senate Bill 1039, with an Amendment in the Nature of a Substitute, was enacted by the 1993 Session of the Virginia General Assembly. As originally drafted, the legislative proposal would require the licensure of marriage and family therapists (MFTs) and the creation of a board of marriage and family therapy in the Commonwealth. Subsequent amendments resulted instead in a request for a study of the feasibility of licensing these providers:

> **The Board of Health Professions is requested to study the feasibility of licensing marriage and family therapists. Pursuant to this study, the Board may recommend the structure for the licensure and regulation of marriage and family therapists and may develop proposed regulations governing the licensure of marriage and family therapists by December 1, 1993. The Board shall conclude its study and report to the Governor and the 1994 Session of the General Assembly . . .**

The amendment defers to the statutory authority of the Board of Health Professions to "evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated . . . to consider whether each such professions should be regulated and the degree of regulation to be imposed" (Code of Virginia § 54.1-2510.2. This authority is advisory only; enactment of any provision to regulate any profession at any level is reserved to the General Assembly, which has articulated the policy of the Commonwealth with respect to occupational and professional regulation:

> **. . . the right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is found that such abridgment is necessary for the preservation of the health, safety and welfare of the Public.** (Code § 54.1-100)

The report presents the study methods, findings and recommendations of the Board of Health Professions in response to Senate Bill 1039 (1993 Session).

Study Methods

The Board conducted the following research related to the feasibility of licensing MFTs:

1. Review of the history and system of regulation of mental health and counseling professions in the Commonwealth.

2. Review of the experience of other states and jurisdictions in the regulation of these professions, including MFTs.

3. Conduct of an informational hearing and a widely-publicized invitation to comment on the issue of licensure of MFTs.

4. Application of seven formal criteria adopted by the Board to evaluate the need to regulate currently unregulated health professions and occupations (see page 24).

The review was conducted by the Board's Regulatory Research Committee. The findings and recommendations in this report were approved by majority vote of the full Board at its meeting on October 19, 1993.

Regulation of Mental Health and Counseling Professions in the Commonwealth

The feasibility of licensing MFTs in the Commonwealth is properly framed within a context of the history and the current system of regulation of mental health and counseling service providers. The history illustrates continuing improvement in regulatory policy although some aspects of the current regulatory program remain controversial.

Although the first health profession -- medicine -- was regulated in the Commonwealth more than one century ago, special regulation of mental health and counseling service providers did not occur until after World War II. Physicians, nurses and other provided mental health services but no separate credential was required to provide these services.

In 1946, clinical psychology was brought under State regulation, initially though "registration," a form of regulation requiring only that the practitioner register with State authorities. Licensure of all psychologists in the private, proprietary sector did not occur until two decades later. At that juncture, social work was also added to the roster of regulated professions, first by registration in 1966, then by licensure in 1976. The 1976 action to license private, proprietary practitioners of social work was accompanied by a new law to license professional counselors in private practice.

By that time, the General Assembly also recognized the need to coordinate the regulation of these professions in the public interest. The 1976 legislation also established an oversight Board of Behavioral Science. Its creation included an extraordinary declaration of intent:

> It is declared to be the policy of the Commonwealth of Virginia that the activities of those persons who render services to the public in the behavioral science area be regulated to ensure the protection of the public health, safety and welfare. The Commonwealth also recognizes that the many professions offering these services overlap and intertwine to a substantial degree. This fact results in the need for these professions to work in close harmony with each other to maintain quality service to the citizens and to prevent infringement on the rights of practitioners to engage in their lawful professions, which infringements may harm the public. The system of regulation established herein is intended to provide professional responsibility for the public and harmony among the professions. (Code § 54-923).

This effort toward systematic and coordinated regulatory policy did not succeed. By 1983, with the transfer of the Board of Professional Counseling, Psychology and Social Work from the Department of Commerce to the Department of Health Professions, the General Assembly abolished the Board of Behavioral Sciences. The boards have continued as separate entities since that time.

Several anomalies continue to characterize the regulatory program for mental health and counseling professions in Virginia. Among these are:

(1) the regulation of clinical psychology by the Board of Medicine;

(2) board policies related to the recognition or regulation of specialty practices, and;

(3) widespread exemptions from licensure (e.g., for employees of government or private nonprofit organizations)

Dual Regulation of Clinical Psychologists. While the Board of Psychology directly regulates all other psychologists, the licensure of clinical psychology is effected jointly through the Board of Psychology and the Board of Medicine. The Board of Psychology examines candidates for licensure as clinical psychologists and forwards the credentials of qualified candidates to the Board of Medicine which thereafter licenses and regulates these practitioners. In the past, individuals recommended by the Board of Psychology were subsequently licensed by the Board of Medicine without exception.

Responding to changes in the regulations of the Board of Psychology affecting qualifications for licensure as a clinical psychologist, recent statutory amendments enacted by the General Assembly (1993 Acts. Chapter 767) provide the Board of Medicine explicit authority to conduct an independent assessment of the qualification of candidates and determine whether a license will be issued by that Board. These developments reflect a continuing professional struggle to differentiate clinical psychology from other branches of psychology and to resist any attempt to blur distinctions among clinical, counseling, school, and other psychologists.

Clinical psychologists trained in nationally accredited clinical psychology educational, internship and residency programs have argued that the Board of Psychology has diluted requirements for clinical psychology licensure, resulting in the licensure by the Board of Medicine of many psychologists who are not products of programs accredited by the American Psychological Association. This has led to an increase of more than twenty-five percent in the number of clinical psychologists licensed by the Board of Medicine over the past five years. Similar growth has not been experienced in the number of psychologists or school psychologists licensed by the Board of Psychology.

Virginia is unique in its regulation of clinical psychologists by the Board of Medicine; in all other States and jurisdictions, clinical psychologists are licensed by Boards of Psychology. While it would normally be expected that a discipline-

based profession would prefer self-regulation, clinical psychologists in the Commonwealth appear to prefer the perceived status and collegiality of their association with the Board of Medicine. In addition, the statutory scope of practice of clinical psychology is unique in the inclusion of "psychotherapy" among the authorized practices. This distinction may be illusory; virtually all mental health and counseling professions "do" psychotherapy, even though the practice is legally limited to clinical psychologists.

Specialty Recognition and Regulation. This struggle to differentiate clinical psychology from other branches of psychology and lay claim to specialty practices is illustrative of other efforts to establish or disestablish specialties within mental health and counseling professions. Within the profession of social work, two levels of practitioner are licensed -- social workers with a baccalaureate degree (or a master's degree without supervised clinical experience) -- and clinical social workers prepared at the master's level who have completed a period of supervised clinical experience. Other regulatory categories include "associate social workers," and "registered social workers who were grandfathered at the time licensure was enacted. In addition, in the past, the Board of Social Work permitted licensees to designate specialties in "casework," "group work," or both.

The Board of Psychology has at various time established or attempted to establish specialties such as "psychologist/clinical," or "health service provider," in addition to differentiating the three statutory classes of psychologist license (psychologist, school psychologist, and clinical psychologist). Additional confusion arises from the fact that the Board of Psychology is required to have among its members one psychologist who specializes in "counseling psychology," even though counseling psychology is not defined in either statutes or regulations pertaining to the regulation of psychology.

Concerns about specialization have been most pronounced within the Board of Professional Counselors. From the time of the original licensure of professional counselors in 1976 until the present, that Board has at various time certified counselors whose practice crosses disciplinary lines, most notably counselors who provide services to chemically dependent or substance abusing clients. Until 1983, the Board issued separate certifications to "drug counselors" and "alcohol counselors." At that time, the certifications were combined into a single certification program for "substance abuse counselors." To become certified by the Board, it is not necessary to meet requirements for licensure, either as a

professional counselor or in a related profession, although many certified substance abuse counselors are also licensed as social workers, psychologists, professional counselors, nurses, or physicians.

In addition to these statutorily authorized "specialties," in its early regulatory practice the Board of Professional Counselors prescribed qualifications for practice as a "marriage and family counselor," "pastoral counselor," "rehabilitation counselor," "career counselor," or "research counselor." The scope of these practices was not established in statute, but licensed professional counselors who wished to specialize in these areas could do so if they voluntarily met specific education and experience requirements.

In more recent times, the counseling profession has repudiated specialty regulation in favor of generic licensure of all professional counselors. This posture results in continued efforts of the part of the counseling profession to define the practice of marriage and family therapy as counseling and to require licensure as a professional counselor.

Exemptions from Licensure. Controversy continues regarding the widespread exemptions that apply to most mental health and counseling professions in the Commonwealth. Among professional counselors, psychologists, and social workers, these exemptions apply to persons rendering services without charge to the service recipient, students, the clergy (under most conditions), and employees of private businesses (such as personnel managers) so long as their counseling relates only to employees and in respect to their employment. In addition, among counselors and social workers, employees or volunteers in government agencies or in private nonprofit organizations are exempt from licensure.

Professional associations continue to press for removal of these exemptions. A legislative proposal in 1988 to remove the exemption for government agencies and nonprofit organizations for counselors, psychologists and social workers was amended to affect only those providing psychological services in these settings. The narrow enactment provides only that these individuals be supervised by a licensed psychologist or clinical psychologist.

State and other government agencies and private nonprofit organizations have resisted efforts to remove the exemptions on the grounds that their quality assurance mechanisms are as good as or superior to licensure, and that removing

the exemption would increase cost and decrease access to needed services, especially among the poor.

Regulatory Reform Initiatives. These and other issues were cited for critical attention in the Joint Legislative Audit and Review Commission (JLARC) 1982-83 review of occupational and professional regulation in Virginia. At that time, the three "behavioral science" boards (Professional Counselors, Psychology, and Social Work) were housed in the Department of Commerce and overseen by an "umbrella" Board of Behavioral Sciences. Each of the individual boards had rulemaking authority, and the umbrella board was empowered to make rules regarding general issues as well as to promulgate regulations affecting each of the regulated professions. The result was a tangle of rules and procedures that severely limited the credibility of the regulatory program.

The JLARC review cited evidence in support of a number of criticisms of the Boards of Professional Counselors, Psychology, and Social Work and of the "umbrella" Board of Behavioral Science Professions. Among the criticisms were that these boards:

- employed overly restrictive regulatory methods,
- lacked citizen representation,
- duplicated efforts,
- employed ill-defined scopes of practice,
- lacked reciprocity provisions,
- experienced unusually low rates of complaint and discipline,
- provided no routine inspections of practice,
- promulgated unclear regulations and applied rules inconsistently,
- upheld unclear specialty requirements,
- engaged in continuing scope of practice conflicts,
- arbitrarily or inconsistently interpreted statutes and rules,
- sponsored examinations with a strong potential for subjective interpretation (especially oral examinations).

The review recommended that:

- the Board of Behavioral Sciences be eliminated,
- the three individual boards be transferred to the Department of Heath Professions, and

- o the joint regulation of clinical psychology be terminated.

In 1984, the three boards were transferred to the Department of Health Professions, and the Board of Behavioral Sciences was abolished. Many of the other problems identified by JLARC have also been corrected. As a result of a comprehensive regulatory reform effort in 1984-86, the three board relinquished "specialty regulation" in most areas, although each board continues to enjoy statutory authority to recognize such specialties. Citizen members have been added to all boards, oral examinations have been eliminated and other examination practices have been improved, and regulations are simpler and more judiciously administered. Public awareness of the regulatory program has increased, measured by increased numbers of complaints and disciplinary actions.

Current and Future Issues. Other regulatory issues continue to engender concern.

- o the joint regulation of clinical psychology persists despite repeated policy recommendations that this regulatory program be transferred to the Board of Psychology;

- o widespread exemptions from licensure requirements raise important policy questions and perceptions regarding to a "dual system" in which proprietary practitioners are governed by more stringent requirements than are employed providers in public and nonprofit settings;

- o broadly stated scopes of practice and inflexible educational and experiential requirements create the potential for boards to retard development of nontraditional or innovative practices.

In addition, health care reform and market forces converge in suggesting that the regulatory program for mental health and counseling services continue to be reviewed. This is especially important at a time when national health care reform initiatives seek to provide universal access to a limited range of mental health and counseling services while capping expenses, and to eliminate the traditional distinction between "public" and "private" services and patients.

The Health Security Act of 1993, as introduced by President Clinton, would provide all persons access to a basic entitlement of mental health benefits, including substance abuse treatment. The Act would also eventually unify the

currently separate public and private mental health treatment systems. This latter initiative could affect the exemptions from licensure that characterize the regulation of mental health and counseling professions in Virginia and elsewhere.

Under the Health Security Act, providers of mental health and counseling services will be required to be licensed or certified by each state. The merger of the public and private systems of mental health service delivery could profoundly affect the exemptions now in effect. In addition, universal access to mental health services has important implications for expanding the supply of providers to include all those who are competent to deliver care.

Competency assessment in the future will be tied to treatment efficacy and positive outcome. A persistent problem within mental health and counseling professions is the inability to demonstrate the relative efficacy of specific treatments or treatment philosophies. While studies show that patients with defined problems obtain some benefit from medical and nonmedical mental health and counseling services, research also documents that nonmedical services provided by psychiatrists, clinical and other psychologists, clinical social workers, professional counselors, MFTs, and others are essentially interchangeable in terms of outcome. The opportunity costs -- and the fees charged -- by these providers varies widely, however, and licensure restrictions profoundly affect which services can be provided in which state, by which professions, and for which populations and problems (Morrison, 1989; Fortune, 1993). It will increasingly be in the public interest to facilitate the practice of all providers who are able to demonstrate competence in any accepted therapy, including marriage and family therapy.

Reconsideration of policies discouraging the certification of special practices is also occurring as a result of other pressures. At the request of the Administration, the Board of Health Professions has recommended a certification program for providers of mental health and counseling services to sex offenders for consideration by the 1993 General Assembly, and the Board has recommended a special program to certify rehabilitation services providers who are either current licensees or who do not meet current standards for licensure as professional counselors or other professions regulated in the Department of Health Professions. The Board has taken this action in response to a recommendation of the Governor's Advisory Commission on Workers' Compensation that these providers be authorized to practice and that they be required to demonstrate minimal competency and adherence to an ethical code. These recommended certification programs signal the

public and third-parties that a provider has met a minimal standard of competence and submitted to State oversight without creating the market restrictions or bureaucratic procedures inherent in many licensure laws.

In short, continued examination of the system is warranted to ensure that the mental health needs of all Virginia's citizens are met in a cost-effective manner that preserves quality and protects the public. In light of these circumstances, the Board of Health Professions is committed to continuing review of the regulation of mental health and counseling professions in Virginia. An ad-hoc committee of the Board has begun studies of these issues and is expected to report comprehensive findings and recommendations during 1994. This ongoing review tempers the degree to which the Board is prepared to make definitive pronouncements regarding the appropriate regulation of marriage and family therapy, other than to caution against instituting a highly restrictive form of regulation that may be difficult to change at a later time.

Regulation in other States

A clear trend has existed since the end of the World War II for state regulation of mental health and counseling professions. The trend began with the regulation of psychologists, continued to embrace the regulation of social work and professional counselors, and now extends to MFTs as a separately regulated profession.

Psychologists and clinical psychologists are regulated in all jurisdictions, as are physicians and nurses who provide mental health and counseling services. While no state regulated social workers prior to the 1960s, by 1984 thirty-three (33) states required social workers to be licensed, certified or registered, and by the end of 1992, this requirement was universal among all states and jurisdictions. Thirty-nine (39) states currently regulate professional counselors in some fashion, and thirty-one (31) states or jurisdictions now separately regulate MFTs, three times the number that did so in 1986.

The increase in separate regulation of MFTs reflects growing public awareness of these therapists as providers of mental health and counseling services. A survey of a random sample of Connecticut residents (Murstein and Fontaine, 1993) showed that marriage and family counselors ranked highest among the types of mental health professional survey respondents would recommend to a friend. In this ranking, MFTs scored highest (41 percent) among a listing of psychologists (37

percent), and psychiatrists (32 percent). The same survey found that marriage problems and child-rearing problems, when combined, outranked all other reasons respondents sought professional help.

Despite the clear trend for separate regulation of MFTs, there remains a bewildering array of levels of regulation (e.g., licensure, certification, or registration), entry requirements, exemptions from licensure, board structures, and specialties and subspecialties regulated. A decade ago, the Council of State Governments declared that "the regulation of behavioral science professions is in flux [but] exemptions and the overlapping scopes of practice of social work, psychology and counseling suggest that unique scopes of practice are not currently specified in state laws. By having such broad exemptions, one could argue that the current licensure laws which should restrict the practice of a profession to licensed practitioners are more accurately functioning as title protection laws." (CLEAR, 1984: 26).

This conclusion is probably as valid today as when it was first drawn. A current CLEAR listing of regulated mental health and counseling professions (CLEAR, 1993 forthcoming), for example, shows that MFTs are licensed in Virginia, when in fact, no such licensure program exists. Inaccuracies of this kind continue, in part, as a result of an effort on the part of professional counselors to (1) resist attempts to differentiate professional counseling into specialty groups, and (2) contend that the practice of marriage and family therapy constitutes the practice of professional counseling and that MFTs who are not licensed in an "established" mental health profession (psychiatry, psychology, social work, nursing, professional counseling) should be prevented from practice (Remly, 1993).

A number of states and provinces (California, Colorado, Florida, Nebraska, Ontario, Quebec) have studied the regulation of mental health and counseling professions but none has emerged from these studies with models suitable for direct emulation in the Commonwealth.

A possible exception is Colorado; in that jurisdiction, licensed and unlicensed providers may practice with relative freedom, but all practitioners -- whether licensed or not -- are subject to disciplinary action. This is an important feature. Because of the breadth of legal scopes of practice and widespread exemptions, boards in the Commonwealth find it difficult or impossible to sanction unlicensed practitioners because boards have no jurisdiction over unlicensed providers.

Commonwealth's Attorneys -- who have jurisdiction -- place relatively low priority on detecting and prosecuting those who provide mental health or counseling services without a State credential.

The Pros and Cons of Separate Regulation of MFTs in the Commonwealth

While Senate Bill 1036 called for a study of the feasibility of licensing MFTs, the professional association of MFTs in the Commonwealth, the Virginia Association of Marriage and Family Therapists (VAMFT) requested the Board of Health Professions to consider a number of options, prioritized by the association as follows:

1. Recommend establishment of an "umbrella board" for the regulation of psychologists, social workers, professional counselors, and MFTs.

2. Incorporate the licensure of MFTs into and existing, retitled board (e.g. Board of Professional Counselors and Marriage and Family Therapists).

3. Establish a separate licensing board for MFTs.

4. Establish a certification program for MFTs to be available for licensees of existing boards (physicians, nurses, psychologists, professional counselors, and social workers) and to MFTs who do not meet licensure requirements for these professions.

In testimony presented at a public hearing and in subsequent written submissions, the arguments for and against these various options are similar. Unfortunately, both sets of argument are based more on opinion and conjecture than on documentation. One significant difference relates to the sources of the arguments. Comments favoring licensure of MFTs came from a wide arrange of professionals, students, consumers of services and legislators. Those opposing separate regulation were either associations representing already licensed mental health professions or licensees of the Boards of Social Work, Psychology, or Professional Counseling.

Arguments favoring Regulation of MFTs. Those favoring separate regulation of MFTs included representatives of the VAMFT, family practice physicians, a child psychiatrist, pastoral counselors, faculty of the MFT education program at Virginia Polytechnical Institute and State University (VPISU), MFT students, MFT clients, and legislators. They argued that:

- Regulation of MFTs would facilitate interstate mobility through arrangements for licensure by reciprocity or endorsement with 31 other states now regulating MFTs. No arrangements for reciprocity now exist among boards regulating professional counselors in the United States.

- Public protection would be enhanced by providing the public with a signal that the MFT has met appropriate entry requirements to provide these services.

- Services would be more cost-effective since families needing MFT services wold not have to shop or be referred, but could directly access the qualified provider.

- Graduate programs for MFTs in the Commonwealth do not offer courses to qualify graduates for licensure as professional counselors. Current licensure requirements require additional coursework and supervised training. Conversely, training programs for professional counselors and other licensed practice do not require courses in marriage and family therapy.

- Appropriate referrals to MFTs are made difficult by the lack of a uniform standard for those who advertise themselves as MFTs.

- The national professional association, the American Association of Marriage and Family Therapists (AAMFT), has standards for education and ethical practice in place. These standards could be relied upon for regulatory purposes.

- MFT crosses the boundaries of several mental health professions and cannot be restricted to one profession or board.

- The Board of Professional Counselors has not been cooperative in accommodating MFT practice. The licensure examination does not adequately test for competence in marital and family issues.

- Licensure of MFTs would not be used to exclude other licensed professionals who choose to specialize in or offer MFT services.

Arguments Opposing Separate MFT Regulation. Those opposing separate MFT regulation included the National Association of Social Workers (Virginia Chapter), the Virginia Society of Clinical Social Workers, the Virginia Association of Clinical Counselors, the Virginia Counselors Association, the Virginia Academy of Clinical Psychologists, and a number of licensed mental health professionals. Their arguments include:

- Current regulation by five boards in the agency is adequate protection for the public. Separate regulation would be duplicative and create an unnecessary additional expense for current licensees and increase the cost of mental health care.

- Marriage and family therapy is not regarded as a separate discipline, but as a modality of practice or method of intervention.

- Other professions (e.g., medicine, dentistry) do not separately license specialties.

- Separate regulation would create a precedent and result in demand for separate credentialing of hypnotherapists, play therapists, sex therapists, etc.

- Certification would confuse the public because the public would assume that a certified MFT is a licensed professional when, in fact, the certified MFT may not meet licensure requirements.

- Separate regulation would prevent currently licensed practitioners from advertising themselves as MFTs, even if they have practiced and specialized in that modality. Efforts to exclude other licensees have followed regulation in other states.

- Anyone can advertise their service as counselors; separate regulation of MFTs would not prevent that occurrence any more than licensure of professional counselors or clinical social workers has prevented these advertisements.

- There is no consensus in the mental health field as to the definition and scope of practice of MFTs. Disagreements arise from the use of differing perspectives of the family systems model and differing treatment processes.

- Separate regulation could imply expertise or training in the treatment of psychological problems that may impact on the family unit which the practitioner may not possess.

- Separate regulation implies a clear delineation between individual and family therapy. The two often overlap in the therapeutic process.

Findings Regarding Licensure of Marriage and Family Therapists

In making its findings regarding licensure or other regulation of MFTs, the Board of Health Professions applied seven formal criteria it has adopted to guide evaluations of the need to regulate health occupations and professions. These criteria appear on the following page.

As a result of its assessment, the Board of Health Professions respectfully submits the following findings and recommendations for the consideration of the Governor and the General Assembly.

Findings

Risk for Harm. There is a risk for harm to the public from the unregulated practice of marriage and family therapy. Those who provide marriage and family therapy services should be licensed as mental health or counseling professionals, except when exempted from these requirements by Virginia statute.

VIRGINIA BOARD OF HEALTH PROFESSIONS
CRITERIA FOR EVALUATING THE NEED FOR REGULATION

Adopted October, 1991

Criterion One: Risk for Harm to the Consumer

The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of the health services, or (d) from any combination of these factors.

Criterion Two: Specialized Skills and Training

The practice of the health occupation requires specialized education and training, and the public needs to have benefit by assurance of initial and continuing occupational competence.

Criterion Three: Autonomous Practice

The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.

Criterion Four: Scope of Practice

The scope of practice is distinguishable form other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities.

Criterion Five: Economic Impact

The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioners, and the cost of operation of regulatory boards and agencies.

Criterion Six: Alternatives to Regulation

There are no alternatives to State regulation of the occupation which adequately protect the public. Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.

Criterion Seven: Least Restrictive Regulation

When it is determined that the State regulation of the occupation or profession is necessary, the least restrictive level of occupational regulation consistent with public protection will be recommended to the Governor, the General Assembly and the Director of the Department of Health Professions.

Specialized Skills and Training. The practice of marriage and family therapy requires specialized skills and training. These skills and this training may be acquired in programs preparing individuals for licensure as regulated mental health and counseling service providers, or in special programs for the preparation of marriage and family therapists.

Autonomy. The functions and responsibilities of marriage and family therapists require independent judgment and providers of these services practice autonomously;

Unique Scope of Practice. The scope of practice of marriage and family therapists overlaps but is not coterminous with the scopes of practice of currently regulated mental health and counseling professions (psychiatry, psychiatric nursing, clinical and other psychology, clinical work, professional counseling). While distinguishable from other regulated and unregulated mental health and counseling services, the practice of marriage and family therapy should not be confined to those trained in special programs for the preparation of marriage and family therapists, nor should those licensed mental health and counseling professionals who can demonstrate competency in the provision of marriage and family therapy be restrained from providing these services.

A listing of the scopes of practice of currently regulated professions and of marriage and family therapy is presented in Appendix B. Notably, the proffered definitions and scope of practice of MFT include the "diagnosis and treatment of nervous and mental disorders . . . within the context of marital and family systems." In the Commonwealth, diagnosis and treatment of mental and nervous disorders is reserved to the practice of medicine by physicians (MDs) and osteopathic physicians (DOs). Any attempt to license the proffered scope of practice and reserve it to licensed marriage and family therapists would be resisted by organized medicine, just as the licensure of MFTs is now resisted by professional associations representing social work and clinical social work, clinical psychology, and counseling.

Economic Impact. The economic impact of **licensing** marriage and family therapists is not justified. Licensure implies one of two conditions that would create unnecessary

a. other licensed professionals (e.g. psychiatrists, clinical and other psychologists, clinical social workers, professional counselors, psychiatric mental health nurse clinicians) would need to be additionally licensed to offer marriage and family therapy services within their practice, or

b. the practice would be confined to individuals prepared in educational and experiential programs designed exclusively for the preparation of marriage and family therapists.

Alternatives to Licensure. There are less restrictive and less costly alternatives to the licensure of marriage and family therapists that could protect the public. Among these are:

a. Certification of MFTs on a voluntary or mandatory basis. Such certification could be available to current licensees who wish to specialize in marriage and family therapy, and to those formally prepared for practice as MFTs who do not meet existing licensure standards.

b. Requiring individuals specially prepared in marriage and family therapy educational programs to qualify for and be licensed within an existing licensure program (medicine, nursing, psychology, social work, or professional counseling.

c. Revising requirements in one or more existing licensure programs (e.g., professional counseling) to permit the licensure of MFTs without additional coursework or supervised experience.

Least Restrictive Alternative. The Board of Health Professions finds that the least restrictive alternative consistent with public protection to be the establishment of an affirmative requirement that marriage and family therapists be licensed in an existing mental health or counseling profession. This requirement can be met in one of two ways: (1) through the candidate securing coursework and experience to meet existing requirements, or (2) through the promulgation of board regulations recognizing marriage and family therapy is a specialty practice and establishing special requirements

to accommodate licensure of graduates of programs designed for the preparation of MFTs. The least restrictive of these two mechanisms is the revision of requirements for entry to licensed practice to accommodate marriage and family therapists as licensees of an existing board, and the most logical of the existing boards is the Board of Professional Counselors.

This alternative requires no special enactment by the General Assembly since the Boards of Psychology, Professional Counselors, and Social Work are currently authorized to designate specialties (Code §§ 54.1-3505.3; 54.1-3605.3; 54.1-3705.3).

In reaching these findings, the Board is acutely aware of the lack of consensus among organized professions regarding the need for a legally defined and separate identity for providers of marriage and family therapy services. Despite continuing interprofessional conflict, a majority of states, the federal government, private third-party payers, and other agencies and organizations recognize this distinct identity. There is a need to monitor developments related to marriage and family therapy on a continuing basis. This is especially the case at a time when national and state health care reforms may lead to universal access to defined mental health and counseling benefits and to the unification of the current dual system of public and private mental health services. These reform measures have profound implications in the need to increase the numbers of competent mental health and counseling service providers to ensure and access while controlling costs.

Recommendation

As a result of this review and these findings, the Board of Health Professions respectfully presents a single recommendation to the Governor and the General Assembly, along with a pledge to continue its review of the regulation of mental health and counseling professions to ensure that the public interest is served.

The Board of Health Professions recommends that the General Assembly decline to enact legislation at this time to require (1) the licensure of marriage and family therapists as a separate profession, or (2) the creation of a separate licensure board for marriage and family therapists.

To ensure that the Commonwealth monitors developments related to marriage and family therapy, the Board of Health Professions will continue its ongoing review of issues affecting the regulation of mental health and counseling professions and exercise its authority to advise the Governor, the General Assembly, and the Director of the Department of Health Professions in matters related to the regulation or deregulation of these professions.

In conducting this review, the Board will assess the responsiveness of boards within the Department in facilitating and accommodating the safe, cost-effective and equitable provision of marriage and family therapy services in the Commonwealth.

Appendix A

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF HEALTH PROFESSIONS
COMMENTS ON FEASIBILITY OF REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SOURCE OF COMMENT	SUMMARY OF COMMENT
Comments received during Public Hearing on August 23, 1993	
David Bailey Administrative Director of Va. Assn. for Marriage & Family Therapy (VAMFT)	Supports licensure as in 31 other states to provide Virginia with qualified MFT's. May encourage licensees from other states to locate here.
Dr. Larry Boyette Pres.-Elect, VAMFT	Supports licensure as a separate discipline. Concerned about lack of reciprocity, protection of the public, and recognition for graduates of Ph.D. program at Virginia Tech. Presented model legislation for licensure of MFT's.
Dr. Jeffrey Keegan Family Practice Midlothian	Supports licensure to protect the public by assuring that referral can be made to person with appropriate credentials. More cost-effective for family dysfunction, because training is oriented to unit & not just to individual and because insurance co. does not reimburse unlicensed therapist.
Dr. Scott Johnson Director of Clinical Training Marriage & Family Therapy Ph.D. Program, VA. Tech.	Supports licensure as critical for protection of the public. Outlined guidelines recognized by AAMFT & compared with counseling curriculum, which has no courses in marriage & family therapy. Reported no data on dangers of unlicensed practice in Va. but summarized complaints of ethics violations from other states that do have licensure. Reported complaints about unlicensed, untrained, or incompetent practice. Reported that most states have interdisciplinary boards that license MFT's & other professions. Reported that Ph.D.'s from MFT program at Tech would need 2 or 3 additional courses and up to 3000 additional hours of supervision to qualify for P.C. licensure. Present system forces practitioners to go through additional steps to achieve licensure.
Rev. Maurice Graham Bon Air Baptist Church Richmond	Supports licensure. Reported that persons advertise in yellow pages as MFT's without an education specific to that field. Need some quality control for those who make referrals. Psychologists and other treat the individual, not the whole system .
Lillian Linderman, M.D. Child Psychiatrist	Supports licensure. Prefers to refer patients to practitioners who have credentials in MFT to address specific problems & provide mediation.
Arnold Woodruff Director of Va. Assn. of MFT	Supports licensure. Distributed membership requirements for Va. Assn. of MFT, qualifies as supervisor of training for MFT but not as a LPC.
Mary E. Zangari Ph.D. candidate at Va. Tech.	Supports licensure. Reported that students in program at Virginia Tech are forced to have additional courses, an exam, and supervised training in order to be licensed in another field. Believes licensure would be protection for the public by identifying those qualified to do therapy and those who are not. Supports connection between membership in association and licensure.
Rev. W. R. Floyd Certified by Amer. Assoc. of Pastoral Counselors	Supports licensure. Presented differences between MFT and PC licensure. 1) MFT may have licensure in another practice; 2) PC Board untrained in MFT & exam unrelated to MFT practice; 3) PC Assoc. not coop. with VA. Assoc. of MFT.- MFT not viewed as separate expertise by PC. Proposed legislation not intended to limit practice of other licensees.
Joy Bressler Nat. Assoc. of Social Workers Virginia Chapter	Opposes licensure of MFT under separate regulations. Current licensure in 5 professions is adequate for practice. MFT does require special expertise in the family system, but do not require an additional license and another reg. board. Licensees are required to practice within the competency of their training.
Dr. James Fuller Va. Soc. of Clinical Social Workers	Opposes separate licensure of MFT. (1) Existing credentialed mental health professions view MFT as a modality of practice taught in graduate curriculum along with other modalities. (2) Separate credentialing would duplicate licensure held by mental health professionals who currently use MFT as a mode of practice. (3) Result would be unfair & unreasonable exclusion of practitioners and be confusing to the public. (4) Lack of agreement in profession about definition of MFT.
Richard S. Luck, Ed.D. Board of Professional Counselors	Opposes separate licensure; practice currently licensed by 4 boards in Department. Bd. of L.P.C. willing to cooperate in licensure of MFT as with other specialty practices.

Appendix A

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF HEALTH PROFESSIONS
COMMENTS ON FEASIBILITY OF REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SOURCE OF COMMENT	SUMMARY OF COMMENT
Written comments received before close of Comment Period on October 1, 1993	
Charles L. Cooke, M.D. Richmond	Supports licensure.
Dennis & Joan Spagnoulo Hopewell	Supports licensure to enable the public to find counselors specifically trained.
Cynthia T. Vann Emporia	Supports licensure to meet specific need, but without restriction of practice of other professions.
Rev. Michael W. Murray Colonial Heights	Supports licensure for specific needs of the family as a separate profession.
Joyce Ann Hudson, Ph.D. Richmond	Supports licensure with separate requirements and credentialing.
Chloe Z. Clark, Ph.D. Virginia Beach	Opposes licensure as not warranted, since this type of therapy is a treatment modality and would create confusion and an additional Board.
Norman Winegar, LCSW Chesterfield	Opposes title protection; confusing to public about qualification of other professionals. Should be regulated through Board of Professional Counselors. Should have reciprocity if regulated.
Michael E. Nahl, M.S. Virginia Beach	Opposes separate licensure since it is a treatment modality; concern about expense and precedence of separate licensure for every specialty.
James R. Hutchison, Ed.D. Virginia Association of Clinical Counselors	Opposes separate licensure as unnecessary to protect the public. Professional counseling recognizes MFT as a specialty group and a modality of practice. Licensing should assure minimal competency at the least cost to regulate. Endorses addition of MFT requirements for licensure of mental health professionals. Not the state's responsibility to provide professional identity; licensees should practice within scope of clinical training & experience. Generic skills in counseling essential for psychotherapy across disciplines. Referrals should be made on knowledge of competencies.
Herb Farnsler	Supports licensure of MFT.
Greg Wolber, Ph.D. Central State Hospital	Opposes separate licensure for these reasons: 1) Licensure & required competency exists within the disciplines not in a treatment population; 2) It is a bad precedent to begin licensing different modalities within mental health, i.e. play therapists; 3) Difficult to separate marital & family therapy from work with individual & vice versa.
Wayne A. Martin, LCSW President, Virginia Society for Clinical Social Work	Opposes licensure for these reasons: 1) MFT is a modality of intervention not a distinct profession. Family systems theory & methodology are a part of clinical training in graduate curriculum; 2) Separate licensure would lead to exclusion of current licensee from practice of MFT; 3) Costly & confusing duplication of licensure for State & consumer-difficult to define where one specialty begins & another ends; 4) Concern that MFT licensees from other states do not meet requirements in Va.- certification would confuse public about their qualification & lead to a reduction in protection for the consumer; 5) Definition of MFT varies & would lead to further confusion.
William M. Mirenda, M.D. Daleville	Supports licensure to identify qualified counselors.
Michael J. Sporakowski Blacksburg	Supports licensure so graduates will be licensed in their profession.
Michael R. Duval, D.Min. Thaxton	Supports licensure to aid consumers & ministers in referring counselees.
Jan Drew Colonial Heights	Supports licensure in order to determine qualified counselors.
David M. Moore Blacksburg	Supports licensure & cites the requirements for the LPC exam as evidence that MFT is not an essential modality in LPC licensure.
Sandra K. Fisher Wake Forest, NC	Supports licensure for consumer protection.
Paige & Glenn Hannuksela, Chesterfield	Supports licensure for consumer protection.

Appendix A

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF HEALTH PROFESSIONS
COMMENTS ON FEASIBILITY OF REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SOURCE OF COMMENT	SUMMARY OF COMMENT
Mr. & Mrs. W. R. Mannon, III Chester	Supports licensure and established criteria as a protection to the public.
Anne S. Kindig Lawrenceville	Supports licensure as a separate profession.
Randal Kirby Emporia	Supports licensure as protection for the public and to afford them appropriate compensation.
James & Luan Kuhns	Supports licensure as separate specialty for the protection of the public.
Mark J. Benson, Ph.D. Blacksburg	Supports licensure & institution of ethical standards for practice.
Carol E. Sartor Hopewell	Supports licensure as a specialty as in 31 other states.
Judith G. Jones Colonial Heights	Supports licensure as a distinct mental health discipline & to protect the public from unqualified counselors.
Vickie L. Lynn Colonial Heights	Supports licensure and ethical standards as safeguard for consumers.
Harold & Sheila Shook Ettrick	Supports licensure of AAMFT certified therapists as a separate specialty.
Diane A. Burton Chesterfield	Supports licensure of MFT to protect public from unqualified counselors.
Thomas J. DeMaio, Ph.D. Virginia Academy of Clinical Psychologists	Opposes licensure for these reasons: 1) Does not meet Criteria for Regulation; 2) Would create public confusion about qualifications of mental health professionals; 3) Would not benefit the public; 4) Will not address concerns of MFT Association.
Lee Cooper, Ph.D. Salem	Supports licensure to strengthen quality of mental health services & ensure competent treatment.
Robert J. Aiduk, Ph.D. Danville	Opposes distinct licensure for MFT. Mental health professionals are currently licensed & may provide counseling if trained.
Frank J. MacHovec, Ph.D. Richmond	Supports licensure as a separate profession focused on family and group behaviors.
Gibbs L. Arthur, LPC Virginia Counselors Association	Opposes licensure as unnecessary to protect the public. VCA has division of marriage & family counselors.
Earl L. Boyette VAMFT	Supports licensure as one of the five core mental health disciplines. Would not limit practice of other professionals.
David L. Bailey, Jr. VAMFT Lobbyist	Proposes several options for licensure to include: 1) An umbrella board of mental health providers to include MFT's, LPC, LCSWs; 2) Retitle an existing Board to include MFT; 3)Establish a separate board for licensure of MFT; 4) Certification of MFT by existing boards which permit practice of MFT within scope of practice.
Zeena E. Zeidberg, M.A., L.P.C., Centreville	Opposes licensure. MFT is a specialty within mental health & licensure/certification would add to confusion. Many professionals continue training through CE to assure competency.
<u>Written comments received from members of the General Assembly</u>	
The Honorable Robert D. Orrock, Spotsylvania	Supports licensure.
The Honorable Jane Haycock Woods, Fairfax	Supports licensure as a separate mental health profession.
The Honorable Warren E. Barry Fairfax	Supports some sort of licensing program.
The Honorable Harvey B. Morgan, Gloucester	Supports protection from unqualified practitioners without restriction on other licensed professionals.
The Honorable Watkins M. Abbitt, Jr., Appomattox	Supports licensure in the interest of protecting the public from therapists without appropriate training.

Appendix B

SCOPE OF REGULATED PRACTICES

BOARD OF MEDICINE

MEDICINE

§ 54.1-2900 - "Practice of Medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

PSYCHIATRY

"The branch of medicine that deals with diagnosis, treatment, and prevention of mental illness." - Taber's Cyclopedic Medical Dictionary

CLINICAL PSYCHOLOGY

§ 54.1-2900 - "Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental conditions, by the application of psychological principles, psychological methods, or psychological procedures, including but not limited to psychological assessment and evaluation and psychotherapy, which does not amount to the practice of medicine. this definition shall not be construed to limit or restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering services which he is licensed to provide.

NURSING — BOARD OF NURSING

§ 54.1-3000 - "Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment.

PSYCHOLOGY — BOARD OF PSYCHOLOGY

§ 54.1-3600 - "Psychologist" means a person trained in the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment.

PROFESSIONAL COUNSELORS — BOARD OF PROFESSIONAL COUNSELORS

§ 54.1-3500 - "Professional counselor" means a person trained in counseling and guidance services with emphasis on individual and group guidance and counseling designed to assist individuals in achieving more effective personal, social, educational and career development and adjustment.

BOARD OF SOCIAL WORK

CLINICAL SOCIAL WORK

§ 54.1-3700 - "Clinical social worker" means a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

SOCIAL WORK

§ 54.1-3700 - "Social worker" means a person trained to provide service and action to effect changes in human behavior, emotional responses, and the social conditions by the application of the values, principles, methods, and procedures of the profession of social work.

SCOPE OF PRACTICE OF MARRIAGE AND FAMILY THERAPY

Definitions in SB1036 as drafted in the 1993 Session of the General Assembly: "Marriage and family therapy" means the professional application of psychotherapeutic and family systems theory and technique in the diagnosis and treatment of individuals, couples and families."

"Practice of marriage and family therapy" means providing professional marriage and family services to individuals, conjugal couples, and family groups, singly or in groups, directly or through public or private organizations, for a fee.

Definition in SB1036 as enacted in the 1993 Session of the General Assembly: "Whereas, the practice of marriage and family therapy may be defined as the diagnosis and treatment of nervous and mental disorders within the context of marriage and family systems; and..."

Definition from the American Association of Marriage and Family Therapists: "Practice of marital and family therapy means the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise. Marital and family therapy means the diagnosis and treatment of nervous and mental disorders, whether cognitive, affective, or behavioral, within the context of marital and family systems. Marital and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, marital pairs, and families for the purpose of treating such diagnosed nervous and mental disorders.

APPENDIX C

Bibliography of Selected References

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